

# Journal of the Senate

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THURSDAY, MARCH 12, 2020

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend Rick Swanson of Stowe.

## Bills Referred to Committee on Appropriations

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

**S. 218.** An act relating to the Department of Mental Health's Ten-Year Plan.

**S. 273.** An act relating to creating incentives for schools and establishing a goal for correctional facilities to purchase locally produced foods.

## Bill Referred to Committee on Finance

### S. 237.

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to promoting affordable housing.

## Bills Referred

House bills of the following titles were severally read the first time and referred:

### H. 635.

An act relating to regulation of long-term care facilities.

To the Committee on Health and Welfare.

### H. 741.

An act relating to criminal record checks on contractors working in State-owned or -leased facilities.

To the Committee on Institutions.

**Third Reading Ordered****S. 339.**

Senator Campion, for the Committee on Finance, to which was referred Senate committee bill entitled:

An act relating to miscellaneous changes to laws related to vehicles.

Reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**Bill Amended; Bill Passed****S. 261.**

Senate bill entitled:

An act relating to eliminating life without parole.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the bill by striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. 28 V.S.A. § 501 is amended to read:

**§ 501. ELIGIBILITY FOR PAROLE CONSIDERATION**

(a) An inmate serving any sentence other than life without the possibility of parole shall be eligible for parole consideration no later than upon serving 35 years.

(b) An inmate who is serving a sentence of imprisonment shall be eligible for parole consideration as follows:

(1) If the inmate's sentence has no minimum term or a zero minimum term, the inmate shall be eligible for parole consideration within 12 months after commitment to a correctional facility.

(2) If the inmate's sentence has a minimum term, the inmate shall be eligible for parole consideration after the inmate has served the minimum term of the sentence or upon the inmate serving 35 years, whichever occurs first.

Which was agreed to.

Thereupon, the bill was read the third time and passed on a division of the Senate, Yeas 18, Nays 8.

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**Bills Amended; Third Readings Ordered****S. 180.**

Senator Collamore, for the Committee on Agriculture, to which was referred Senate bill entitled:

An act relating to prohibiting the use and application of the pesticide chlorpyrifos.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 1114 is added to read:

§ 1114. USE OF CHLORPYRIFOS

(a) Definition. As used in this section, “chlorpyrifos” means a pesticide with the chemical name O,O-diethyl O-(3,5,6-trichloro-2-pyridinyl)-phosphorothioate.

(b) Prohibition. No person shall use or apply chlorpyrifos in the State.

Sec. 2. 6 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter unless the context clearly requires otherwise:

(1) “Secretary” ~~shall have~~ has the same meaning ~~stated~~ as in subdivision 911(4) of this title.

\* \* \*

(4) “Economic poison” ~~shall have~~ has the same meaning ~~stated~~ as in subdivision 911(5) of this title.

(5) “Pest” means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganisms, which the Secretary declares as being injurious to health or environment. Pest shall not mean any viruses, bacteria, or other microorganisms on or in living humans or other living animals.

(6) “Pesticide” for the purposes of this chapter shall be used interchangeably with “economic poison.”

\* \* \*

(8) “Integrated pest management” means an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Under

integrated pest management, pesticides are used only after monitoring indicates they are needed according to established guidelines, and pesticide treatments are made with the goal of removing only the target organism. Pest control materials are selected and applied in a manner that minimizes risks to human health, beneficial and nontarget organisms, and the environment.

Sec. 3. 6 V.S.A. § 1102 is amended to read:

§ 1102. PESTICIDE ADVISORY COUNCIL ESTABLISHED

(a) The Pesticide Advisory Council is established and attached to the Agency of Agriculture, Food and Markets. Members of the Council, ~~except those public members appointed by the Governor,~~ shall be qualified individuals who, by experience and training, are knowledgeable in ~~one or more~~ areas associated with pest control or in the goals or functions of the Council. ~~The Secretary, or Commissioner as the case may be, shall represent each Department or Agency on the Council~~ Council shall comprise the following members:

~~(1) The Department of Fish and Wildlife.~~

~~(2) The Department~~ Commissioner of Environmental Conservation. or designee;

~~(3)(2) The Agency~~ Secretary of Agriculture, Food and Markets. or designee;

~~(4) The Department of Forests, Parks and Recreation.~~

~~(5)(3) The Department~~ Commissioner of Health. or a designee with expertise in public health;

~~(6) The Agency of Transportation.~~

~~(7) One physician from the College of Medicine of the University of Vermont nominated by its dean.~~

~~(8)(4) One representative in the area of~~ with expertise in agronomy, entomology, or plant pathology, or weed control from the University of Vermont Extension to be named by the Director, appointed by the Secretary.

~~(9)(5) One representative in the area of pesticide research from the Vermont Agricultural Experiment Station named by the Dean of the College of Agriculture and Life Sciences of the University of Vermont.~~

~~(10)(6) Two members appointed by the Governor. In choosing these members, the Governor shall consider people who have knowledge and qualities that could be useful in pursuing the goals and functions of the Council. One of these members shall have practical experience in commercial~~

agricultural production and shall be appointed in consultation with the Secretary. One of these members shall have practical knowledge or experience in environmental or public health issues in Vermont.

(7) One representative with expertise in farming in Vermont to be appointed by the Secretary.

(8) One representative with expertise in the area of environmental consequences of pesticide and other contaminants in the environment named by the Dean of the Rubenstein School of Environment and Natural Resources.

(9) One representative with expertise in Integrated Pest Management (IPM) and managing land while minimizing or avoiding the use of pesticides in Vermont to be appointed by the Secretary.

~~(b) Each State or university member of the Council shall serve until his or her resignation or until his or her successor is appointed or otherwise designated in accordance with this chapter. Public members~~ member of the Pesticide Advisory Council, except those members serving ex officio, shall be appointed for terms of three years, except initially, appointments shall be made such that one member shall serve for a term of one year and one for a term of two years.

~~(c) The Chair of the Council shall be designated by the Governor and serve as his or her personal representative and~~ The Council shall select a chair from among its members, and the chair shall coordinate activities on the Council.

~~(d) The functions of the Council are shall:~~

~~(1) To review~~ Review insect, plant disease, weed, nematode, rodent, noxious wildlife, and other pest control programs within the State and to assess the effect of such programs on human health and comfort, natural resources, water, wildlife, and food and fiber production and, where necessary, make recommendations for greater safety and efficiency.

~~(2) To serve~~ Serve as the advisory group to State agencies having responsibilities for the use of pesticides as well as to other State agencies and departments.

~~(3) To advise~~ Advise the Executive Branch of State government with respect to legislation concerning the use of various pest control measures.

~~(4) To suggest~~ Recommend programs, policies, and legislation for wise and effective pesticide use that lead to an overall reduction in the use of pesticides in Vermont consistent with sound pest or vegetative management practices.

(5) ~~To recommend~~ Recommend studies necessary for the performance of its functions as established under this section.

(6) ~~To recommend~~ Recommend targets to the General Assembly with respect to the State statutory goal of achieving an overall reduction in the use of pesticides ~~consistent with sound pest or vegetative management practices and to measure the State's progress in reaching those targets and attaining that goal~~. The targets should be designed to enable evaluation of multiple measures of pesticide usage, use patterns, and associated risks. Targets should take into consideration at a minimum the following:

(A) reducing the amount of acreage where pesticides are used;

(B) reducing the risks associated with the use of pesticides;

(C) increasing the acreage managed by means of integrated pest management techniques;

(D) decreasing, within each level of comparable risk, the quantity of pesticides applied per acre; and

(E) making recommendations regarding the implementation of other management practices that result in decreased pesticide use.

(7) ~~To recommend~~ Recommend to the Secretary and the General Assembly policies, proposed rules, or legislation for the regulation of the use of a treated article when the Council determines that use of the treated article will have a hazardous or long-term deleterious effect on the environment in Vermont, presents a likely risk to human health, or is dangerous. In developing recommendations under this subdivision, the Council shall review:

(A) alternatives available to a user of a treated article; and

(B) the potential effects on the environment or risks to human health from use of the available alternatives to a treated article.

(e) The Council shall meet ~~semiannually, once in the fall and once in the spring~~ at least quarterly. Meetings at other times may be called by the Governor, by the Chair, or by a member of the Council. Attendance at Council meetings shall not be required of the commissioners of departments within the Agency of Natural Resources or their designees; however, at least one of these commissioners or the commissioner's designee shall attend each meeting of the Council. The Council's proceedings shall be open to the public and its deliberations shall be recorded and made available to the public, along with its work product.

(f) On or before February 1, 2021 and annually thereafter, the Council shall submit to the Senate Committee on Agriculture and the House Committee on

Agriculture and Forestry a report regarding the specific actions and activities accomplished by the Council in the previous calendar year to reduce risk to humans and the environment from pesticide use and to reduce the amount of pesticides used within each category of pesticide use in Vermont. The report also shall include all recommendations by the Council to the General Assembly under subdivisions (d)(6) and (7) of this section regarding targets for achieving an overall reduction in the use of pesticides. All recommendations to the General Assembly under subdivisions (d)(6) and (7) of this section shall be publicly posted, noticed for public comment, and posted to and regularly updated on the website of the Agency of Agriculture, Food and Markets.

Sec. 4. TRANSITIONAL PROVISION; REVISION OF MEMBERSHIP OF PESTICIDE ADVISORY COUNCIL

(a) The terms of the members of the Pesticide Advisory Council established under 6 V.S.A. § 1102 in effect immediately prior to the effective date of Sec. 3 of this act shall expire on July 1, 2020.

(b) On or before July 1, 2020, the appointing authorities of the Pesticide Advisory Council set forth in 6 V.S.A. § 1102 as amended in Sec. 3 of this act shall appoint the members of the Pesticide Advisory Council as amended in Sec. 3 of this act, and the terms of those new members shall begin on July 1, 2020.

Sec. 5. HERBICIDE USE ON FIELD CORN; BEST PRACTICES

On or before May 1, 2021, the Secretary of Agriculture, Food and Markets shall develop by procedure best practices in addition to the Vermont Regulations for the Control of Pesticides that farmers using herbicides on field corn should implement to reduce the amount of herbicides used on corn fields and to avoid or mitigate potential harms to public health or the environment.

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (chlorpyrifos prohibition) and 4 (transitional provision; Pesticide Advisory Council) shall take effect on passage.

(b) All other sections shall take effect July 1, 2020.

And that after passage the title of the bill be amended to read:

An act relating to the use and application of pesticides.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

**S. 187.**

Senator Hooker, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to transient occupancy for health care treatment and recovery.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. § 4452 is amended to read:

§ 4452. EXCLUSIONS

Unless created to avoid the application of this chapter, this chapter does not apply to any of the following:

\* \* \*

(8) transient occupancy in a hotel, motel, or lodgings during the time the occupant is a recipient of General Assistance or Emergency Assistance temporary housing assistance, regardless of whether the occupancy is subject to a tax levied under 32 V.S.A. chapter 225; or

(9) occupancy of a dwelling unit without right or permission by a person who is not a tenant; or

(10) transient occupancy by an occupant placed in a hotel, motel, or lodgings in connection with health care treatment or recovery, where the occupancy is paid for by a hospital as licensed in 18 V.S.A. chapter 43, an agency designated pursuant to 18 V.S.A. § 8907, or a specialized service agency operating under an agreement entered into pursuant to 18 V.S.A. § 8912, regardless of whether the occupant is subject to a tax levied under 32 V.S.A. chapter 225.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

**Appointments Confirmed**

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:



The nomination of

Schirling, Michael of Burlington - Commissioner Department of Public Safety - September 3, 2019 to February 28, 2023.

Was confirmed by the Senate.

The nomination of

Smith, Michael K. of Westford - Secretary Agency of Human Services - October 28, 2019 to February 28, 2021.

Was confirmed by the Senate on a roll call Yeas 29, Nays 0.

Senator Collamore having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Balint, Baruth, Benning, Bray, Brock, Champion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

**Those Senators who voted in the negative were:** None.

**The Senator absent and not voting was:** MacDonald.

### **Message from the House No. 30**

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 215.** An act relating to the Office of the Child Advocate.

**H. 438.** An act relating to the Board of Medical Practice and the licensure of physicians and podiatrists.

**H. 552.** An act relating to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund.

**H. 650.** An act relating to boards and commissions.

**H. 723.** An act relating to telehealth.

**H. 728.** An act relating to the miscellaneous changes affecting the duties of the Department of Vermont Health Access.

**H. 754.** An act relating to restructuring and reorganizing General Assembly staff offices.

**H. 794.** An act relating to limiting liability for agritourism.

**H. 936.** An act relating to sexual exploitation of children.

In the passage of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 44.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

### **Adjournment**

On motion of Senator Ashe, the Senate adjourned until eleven o'clock and thirty minutes in the morning.